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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,185	11/17/2003	Michelo J. Alberg	N95.12-0016	3335

164 7590 03/27/2007
KINNEY & LANGE, P.A.
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MINNEAPOLIS, MN 55415-1002

EXAMINER

NICOLAS, FREDERICK C

ART UNIT	PAPER NUMBER
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3754

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/715,185

Applicant(s)

ALBERG, MICHELE J.

Examiner

Frederick C. Nicolas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22,24-31 and 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8,11,12,21,22 and 39 is/are rejected.
- 7) ☒ Claim(s) 9,10,13-20 and 24-31 is/are objected to.
- 8) ☒ Claim(s) 1-22,24-31 and 39 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 7-20,23-31 is withdrawn in view of the newly discovered reference(s) to Aleck 3,592,360 in view of Krampe et al. 6,290,801.

Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8,11-12,21-22,39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aleck 3,592,360 in view of Krampe et al. 6,290,801.

Aleck discloses a container (10) for holding and dispensing liquid, which comprises a container mouth (24), a container body (12) extending from the container mouth, comprising: a rigid portion dimensionally defining the container (col. 1, ll. 48-60), a liner portion (14) disposed within the container adjacent to the rigid portion, and an adhesive layer (36) disposed between the rigid portion and the liner portion, wherein the adhesive layer removably secures the liner portion to the rigid portion such that the liner portion is capable of being separated from the rigid portion and collapsed within the container (col. 2, ll. 42-75 onto col. 3, ll. 1-17), the liner portion is configured to dispense the liquid through the container mouth while pressurized gas from an external source is introduced between the rigid portion and the liner portion (col. 3, ll. 1-17), a gas inlet

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(22) extending through the rigid portion to a point between the rigid portion and the liner portion for allowing gas to enter between the rigid portion and the liner portion, wherein the rigid portion comprises at least one barrier layer for reducing permeation of moisture, please note that it is inherent that Aleck's rigid container is capable of reducing permeation of moisture, light and gas. Aleck lacks that a first adhesive contact with the rigid portion and a second adhesive contact with the liner portion, wherein the first adhesive contact and the second adhesive contact have differing adhesive bond strengths. Krampe et al. teach the use of a first adhesive contact (14) of a substrate and a second adhesive contact (16) with a second substrate (18), wherein the first adhesive contact and the second adhesive contact have differing adhesive bond strengths (col. 10, ll. 20-30).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of Krampe et al. onto the device of Aleck by substituting Aleck's adhesive with the adhesives of Krampe et al., in order to provide a composition adhesives that exhibits sufficient bond strength and yet is easily opened and preferably provides evidence of prior opening, as taught by Krampe et al. in (col. 1, ll. 61-63).

The device shown by Aleck and Krampe et al. will perform the method recited in claim 39 during normal operational use of the device.

With respect to claim 3, the claimed subject matter the rigid portion, the adhesive portion and the liner portion are formed together.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have formed the rigid portion, the adhesive portion and the liner portion of Aleck and Krampe et al. together, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art.

Further, with respect to the claimed limitation that the rigid portion, the adhesive portion and the liner portion are formed together through a blow-molding process.

Applicant should note the process of forming (blow-molding process) the device/package is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Allowable Subject Matter

4. Claims 9-10,13-20,24-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 3/5/2007 have been fully considered but are moot in view of the new ground(s) of rejection.

Conclusion

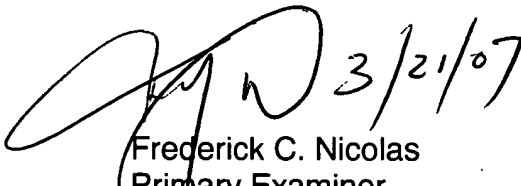
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver, can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN
March 21, 2007


Frederick C. Nicolas
Primary Examiner
Art Unit 3754